

JAMES PHELAN.

[To accompany Bill H. R. No. 342.]

MARCH 19, 1860.

Mr. WALTON, from the Committee on Claims, made the following

REPORT.

*The Committee on Claims, to whom was referred the petition of James Phelan, "asking compensation for assisting in the prosecution of certain parties charged with robbing the United States mails," have considered the same, and beg leave to report:*

That the claimant was appointed by the United States district judge for Mississippi to aid the district attorney in the trial of one Craig, a postmaster, for robbing the mails. Had this service been ordered by the Postmaster General, reasonable compensation would have been due by law. It appears that the case came up suddenly, and time did not permit an order for assistant counsel from the Postmaster General. The judge declares that "the district attorney at that time was incompetent to do the case justice," and that the fee charged is a small one, and justly merited. There is other testimony to like effect from the Hon. Reuben Davis, who defended Craig.

Under this state of facts, your committee concur with the report made at the last Congress, that the charge is moderate, and should be paid. They therefore report the accompanying bill, and recommend its passage.

IN THE HOUSE OF REPRESENTATIVES, June 7, 1858.

Mr. MAYNARD, from the Committee on Claims, submitted the following report:

*The Committee on Claims, to whom was referred the petition of James Phelan, "asking compensation for assisting in the prosecution of certain parties charged with robbing the United States mails," have had the same under consideration, and beg leave to report:*

It appears that Mr. Phelan was called by Hon. S. J. Gholson, United States district judge for Mississippi, to aid the district attorney at the trial of one Craig, who was charged with robbing the United

States mails. The fee charged by Mr. Phelan was two hundred and fifty dollars, which the Department of the Interior declined paying, on the ground that the employment was not authorized by the "head of the department," or by the authority of the President of the United States. In reference to the charge, the Hon. Reuben Davis, of the House of Representatives, writes :

"HOUSE OF REPRESENTATIVES, *May 23, 1858.*

"I know, of my personal knowledge, the services charged for by Mr. Phelan were rendered by him, and as a lawyer I give it as my opinion the charge is not too high. I should have charged not less than five hundred dollars for the same services. I defended Craig.

"Respectfully,

"REUBEN DAVIS."

The Secretary of the Interior, in a letter dated May 26, 1858, says :

"I have a personal knowledge of the case, and have no doubt that the services were rendered; neither have I any doubt that if the necessity of the employment of additional counsel in this case had been brought to the attention of the Postmaster General or my predecessor by Judge Gholson or the district attorney, such employment would have been authorized at a reasonable compensation."

On this letter the Hon. Reuben Davis endorsed as follows: "This case came up suddenly. The bill of indictment was found at the term the trial was had. There was, in my estimation, a *necessity* for the employment of Mr. Phelan, and the distance from Pontotoc to Washington was so great that it was impossible for Judge Gholson to have communicated with the authorities at Washington city."

Under this state of facts, your committee think that Mr. Phelan's charge is a moderate one, and should be paid. They therefore report the accompanying bill, and recommend its passage.